

### Remarks

Claims 1-24 remain pending in the application and stand rejected. Claims 1, 9 and 17 are amended herein. This response, and its enclosed amendments, are being filed as a submission along with a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 and a Petition for Extension of Time under 37 C.F.R. § 1.136(a). The Assignee respectfully traverses the rejections and requests allowance of claims 1-24.

### Claim Amendments

Claim 1 is amended to clarify that different portions of Remote Monitoring (RMON) information are being directly requested and received from each of an RMON probe, an RMON manager, and an RMON database. Claims 9 and 17 are amended in a similar manner. Support for these amendments is provided in the present specification at page 42, lines 5-30, and Fig. 24, which discuss the request and receipt of "RMON probe information," "RMON management information," and "RMON database information" from each of an RMON probe, an RMON manager, and an RMON database, respectively.

### Claim Rejections Under 35 U.S.C. § 102

Claims 1-4, 9-12 and 17-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,697,871 to Hansen (hereinafter "Hansen"). (Page 6 of the final Office action.) The Assignee respectfully traverses the rejection in light of the enclosed amendments to claims 1, 9 and 17, and in view of the following discussion.

Claim 1 provides a method that includes, in part, generating and transmitting instructions to each of an RMON probe, an RMON manager, and an RMON database, each of which provides a different portion of RMON information that is received and stored in a memory of a performance management system. Also, claim 1 indicates that the RMON manager is configured to access both the RMON probe and the RMON database. Claim 9 (directed to a software product) and Claim 17 (directed to an RMON management system) incorporate similar provisions.

Hansen discloses a distributed-network management monitoring system 200 incorporating a distributed-network analyzing console 202, a remote distributed-network

analyzing console 204, and several network analyzing agents 214. (Fig. 2.) The network analyzing agents 214, which may be RMON probes (see column 1, lines 55-59), "gather data and send the data to the distributed-network analyzing console 202." (Column 5, lines 11-14.) The distributed-network analyzing console 202 and the remote distributed analyzing console 204 each collect the data *from its associated network analyzing agents 214* and store it in a management information database, such as MIB 420. (Column 5, lines 15-24.) In one embodiment, random access memory (RAM) 306 residing in a network analyzing console 300, which can be either a distributed-network analyzing console 202 or remote distributed-network analyzing console 204, holds the management information database (MIB) 420. (Fig. 3; and column 3, line 54, to column 4, line 13.) Also, "all data may be stored within one distributed-network analyzing console 202. Once data is consolidated and processed into meaningful information, *remote distributed-network analyzing console 204 sends information to the distributed-network analyzing console 202.*" (Column 5, lines 25-30; emphasis supplied.)

As verified in the final Office action and the subsequent Advisory Action, the rejection is based at least in part upon equating the network analyzing agent 214 with the RMON probe referred to in claim 1, the remote distributed-network analyzing console 204 with the RMON manager and the RMON database referred to in claim 1, and the distributed-network analyzing console 202 with the performance management system claimed in claim 1. (Pages 2 and 3 of the final Office action.) As a result, the final Office action indicates that the operation of the distributed-network management monitoring system 200 of Fig. 2 anticipates the method of claim 1. (Page 6 of the final Office action.) However, neither the distributed-network analyzing console 202, nor any other apparatus disclosed in Hansen, performs the method for operating a performance management system as set forth in claim 1.

The system 200 of Hansen is generally indicated by the prior art diagram of Fig. 22 of the present application. More specifically, each of the network analyzing agents 214 of Hansen is represented in Fig. 22 in the present application by the RMON probe 2210. Similarly, each of the network analyzing consoles 202, 204, by way of their communication with their associated network analyzing agents 214 as described above, are analogous to the NetScout Manager 2220, while the management information database (MIB) 420 within a network analyzing console 202, 204 may be identified with the RMON database 2230.

However, the claims of the present application provide for a performance management

system which communicates *directly with each* of an RMON probe, an RMON database, and an RMON manager *configured to access the RMON probe and database* for acquiring RMON information. The distributed-network analyzing console 202 of Hansen does not communicate directly with each of the remote distributed-network analyzing console 204, the management information database (MIB) 420 of the remote console 204, and the network analyzing agents 214 connected with the remote console 204.

Instead, Hansen indicates that “data may be communicated and shared between the various network analyzing consoles,” but that each of the consoles “*stores data gathered only within its domain of control*. However, data may be communicated and shared *between the various network analyzing consoles*.” (Column 5, lines 20-24; emphasis supplied.) In this case, the domain of control of a console would be an agent 214 with which it communicates directly, or an MIB 420 within the console. Thus, the distributed-network analyzing console 202 may receive RMON information *only from the remote distributed-network analyzing console 204* (i.e., an RMON manager), as described above, but *cannot* send instructions to, and in response receive RMON information from, an RMON database (e.g., the MIB 420) within the remote distributed-network analyzing console 204, or an RMON probe (e.g., agent 214) configured to be accessed by the remote distributed-network analyzing console 204, as this particular database and probe are *not* within the domain of control of the distributed-network analyzing console 202.

This distinction, which was not addressed in either the final Office action or the Advisory Action, is important, as claims 1, 9 and 17 provide for various aspects of a performance management system that communicates directly with RMON managers, *and the probes and databases associated with those managers*, instead of purely through the RMON manager of those probes and databases, as is disclosed in Hansen. In other words, no apparatus of Hansen sends instructions for RMON information to, and then receives RMON information from, each of an RMON probe, an RMON manager configured to access that RMON probe, and an RMON database configured to be accessed by the RMON manager, as provided for in claims 1, 9 and 17.

This distinction is further emphasized by the current amendments to claims 1, 9 and 17, which clarify that different portions of the RMON information is received from each of the RMON probe, RMON manager, and RMON database, thus reducing the need for a remote distributed-network analyzing console 204 to collect information from an agent 214 before

transferring the information to the distributed-network analyzing console 202, as described in Hansen.

In reference to Fig. 3, the final Office action quotes column 5, line 65, through column 6, line 3, which states, "Network interface 312 is used by network analyzing console 300 to *communicate with the various agents of the network*. Network analyzing console 300 may be either a local-network analyzing console 108, a distributed-network analyzing console 202, or remote distributed-network analyzing console 204." (Page 4 of the final Office action; emphasis supplied.) However, Hansen makes clear that each of the analyzing consoles 300 communicates directly only with network analyzing agents *within its domain*, and other distributed-network analyzing consoles, as describe above. The analyzing consoles of Hansen do *not* communicate directly with network analyzing agents within the domain of another analyzing console, as set forth in claims 1, 9 and 17; data originating within those agents must be supplied *by way of the console which has dominion over that particular agent*. Thus, as stated above, the distributed-network analyzing console 202 of Hansen does not send instructions for RMON information to, and receive RMON information from, each of an RMON probe, an RMON manager *configured to access the RMON probe*, and an RMON database *configured to be accessed by the RMON manager*, as provided for in claim 1, 9 and 17.

The final Office action also indicates that, "in col. 5, Hansen indicates 'Distributed-network analyzing console 202 formats and displays the data in a format that can be easily manipulated and acted upon.'" (Page 4 of the final Office action.) However, the format of the data within a distributed-network analyzing console is irrelevant to claims 1, 9 and 17, which do not set forth any particular data format.

Thus, based on the foregoing, the Assignee contends that Hansen does not teach or suggest the various elements of claims 1, 9 and 17, and such indication is respectfully requested.

In addition, claims 2-4 depend from independent claim 1, claims 10-12 depend from independent claim 9, and claims 18-20 depend from independent claim 17, and thus incorporate the limitations of their corresponding independent claims. Thus, the Assignee asserts that claims 2-4, 10-12 and 18-20 are allowable for at least the reasons given above in support of independent claims 1, 9 and 17, and such indication is respectfully requested.

Therefore, in view of the foregoing discussion, the Assignee respectfully requests withdrawal of the rejection of claims 1-4, 9-12 and 17-20.

Claim Rejections Under 35 U.S.C. § 103

Claims 5, 13 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hansen in view of U.S. Patent No. 6,112,241 to Abdelnour et al. (Page 9 of the final Office action.) Also, claims 6-8, 14-16 and 22-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hansen in view of U.S. Patent No. 6,363,477 to Fletcher et al. (Page 10 of the final Office action.) The Assignee respectfully traverses the rejections in light of the foregoing remarks regarding Hansen.

More specifically, claims 5-8 depend from independent claim 1, claims 13-16 depend from independent claim 9, and claims 21-24 depend from independent claim 17, and thus incorporate the limitations presented in their corresponding independent claims. Therefore, the Assignee asserts that these claims are allowable for at least the reasons presented above in support of claims 1, 9 and 17. The Assignee thus respectfully requests withdrawal of the rejection of claims 5-8, 13-16 and 21-24.

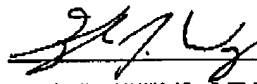
Conclusion

Based on the above remarks, the Assignee submits that claims 1-24 are allowable. Additional reasons in support of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance of claims 1-24.

The Office is authorized to charge the requisite fee of \$790.00 for the Request for Continued Examination, as set forth in 37 C.F.R. § 1.17(e), and \$450.00 for a two-month extension of time under 37 C.F.R. § 1.17(a)(2). The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

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